

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 26.2.A41/B/USA

In re Application of:)
Jackie R. Gust et al.)
Serial No.)
Filed) Group Art Unit
For MOWER) Examiner



STATEMENT CONCERNING REIMERS ET AL.
AND THE INFORMATION DISCLOSURE STATEMENT
BEING FILED HEREWITH

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In the parent application (09/142,392), the Examiner rejected the claims being submitted in this continuation application using U.S. Patent 5,794,422 to Reimers et al. as his primary reference. In considering whether to remove Reimers et al. as a reference using a Rule 131 Affidavit, the undersigned attorney realized that a Rule 131 Affidavit cannot be used to remove a reference that appears to be claiming the same invention as the Applicant's. This situation may be presented by Reimers et al., namely certain claims of this application and certain claims in Reimers et al. appear to be directed to the same invention.

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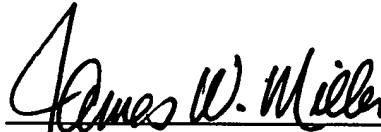
Certificate under 37 C.F.R. 1.10. I hereby certify that this correspondence is being deposited with sufficient postage with the U.S. Postal Service for Express Mailing in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 1/10/2000.
(Express Mail No. EK200640052US)

James W. Miller

Accordingly, this continuation application is being filed to present this issue to the Examiner, namely to see if the Examiner feels that Reimers et al. claims the same invention as in this application, and to give the Examiner the opportunity to suggest a claim under Section 2305 of the M.P.E.P for the purpose of an interference.

In addition, this continuation application is being filed to provide the Examiner with certain information relating to a Unique Mobility/Toro prototype mower that may be a prior art reference against the invention at issue here. See the information contained in the Information Disclosure Statement being filed simultaneously herewith. If the Examiner finds that the Unique Mobility/Toro prototype mower is prior art to this application, this would have bearing on the patentability of the claims which, in turn, would affect whether an interference between Reimers et al. and this application should be declared.

Respectfully submitted,



January 10, 2000

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In re Application of:)
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jc530 U.S. PTO
09/480044
01/10/00

#2
IDS
3-8-00

INFORMATION DISCLOSURE STATEMENT

The Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, the Applicants wish to bring the prior art references listed on the attached Form PTO-1449 to the attention of the Patent and Trademark Office.

A concise explanation of the relevance of some of the references is additionally provided as follows:

U.S. Patent 2,057,417 to Clapper is described in the first paragraph of the Background of the Invention section of this application. Note the embodiment of Figs. 12 and 13 which show the use of an engine driven generator to supply electric power for operating a plurality of electrically driven cutting reels on a riding mower.

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Unique Mobility/Toro Prototype Mower. Two sets of materials are being provided relating to this mower. The first set of materials comprises various documents showing the nature, structure and reduction to practice of a prototype electric drive mower built and operated by Unique Mobility, Inc. and Toro in the late 1980's. The second set of materials comprises various items relating to how Unique Mobility, Inc. used the knowledge of such mower, and materials relating to such mower, in its business activities.

Based upon my current information and belief, in the late 1980's Unique Mobility, Inc. and Toro cooperated to build an electrically powered riding mower. The mower was built and tested in the late 1980's. The mower was a hybrid machine in which electric power was supplied by an engine drive alternator and a battery pack. The mower had electrically driven cutting reels. The mower had an electric traction system with two independent electric motors for powering two of the drive wheels. The mower had a steering wheel for steering the mower, with the steering wheel input being converted by a controller into signals for powering the electric motors connected to the drive wheels. The mower engine could be shut off such that the battery would then power the mower alone, but the battery power alone may have been sufficient to only drive the mower without operating the cutting reels. The mower had a conventional hydraulic system for lifting and lowering the cutting reels.

The first set of materials labelled as Exhibits A-E being submitted herewith relate to the conception and actual reduction to practice of the Unique Mobility/Toro prototype

mower described above. In chronological order, these materials comprise the following:

Exhibit A is a Proposal dated June 18, 1986 from Unique Mobility, Inc. to Toro concerning the project. Note in particular the paragraph on page 3 of the proposal beginning "The intent of our proposal..." which summarizes what Unique Mobility proposed to do in this project.

Exhibit B is a Toro Mower Block Diagram dated October 21, 1987. Note the five motors, two wheel motors and three cutting reel motors.

Exhibit C is a Toro Memorandum dated December 7, 1987 relating to initial testing of the Unique Mobility/Toro prototype mower. The first paragraph of this Memo further describes the structure of the mower.

Exhibit D is a Toro Memorandum dated October 23, 1989 comprising a Final Report on the project. Again, the first paragraph of this Memo describes the structure of the mower. The remainder of the Memo describes the December 1987 initial evaluation, various attempts to address problems in the mower, and subsequent testing and evaluation of the mower in 1988 and 1989.

Exhibit E is a letter dated January 30, 1990 relating to Toro's termination of the project.

Following termination of the project, the physical prototype was disassembled.

The second set of materials labelled as Exhibits F-I being submitted herewith relate to how Unique Mobility, Inc.

used the knowledge of such mower, and materials relating to such mower, in its business activities.

Exhibit F comprises copies of pictures showing the Unique Mobility/Toro prototype mower obtained from photographs and/or slides maintained by Unique Mobility, Inc.

Exhibit G is an envelope containing prints of various frames from an approximately nine minute videotape labelled Summer 1989 obtained from Unique Mobility, Inc. This videotape was used as a promotional videotape shown over the years to prospective customers and the like of Unique Mobility, Inc. to promote Unique Mobility's business. After viewing the videotape, Unique would provide additional information and details to the customer regarding the products or projects shown on the videotape.

The prints of the videotape frames are labelled 1-12 and comprise the following:

Frame 1 is an opening frame showing the Unique Mobility, Inc. logo.

Frame 2 is a subsequent frame showing the Unique Mobility, Inc. brushless D.C. motor.

Frames 3-10 are frames from an approximately fifteen second section of the videotape showing operation of the Unique Mobility/Toro prototype mower in a public park. During this section of the videotape, the following narration is present on the videotape:

"Unique's first installation of a combustion electric drive in a small land vehicle was made in

a commercial riding lawn mower where a conventional hydrostatic drive was replaced by a simple light-weight electric transmission."

Frame 11 is a subsequent frame from the videotape showing an approximately one second section of the videotape that pictures an advanced concept drawing of an electrically driven commercial riding lawn mower.

Frame 12 is a frame from the end of the videotape showing the name and address at that time of Unique Mobility, Inc.

Please note that the entire videotape from which the above frames have been taken is in the office of the undersigned attorney and can be provided to the Examiner for viewing if the Examiner so desires.

Exhibit H is a letter dated October 5, 1998 from Kevin Barnes at Unique Mobility, Inc. to the undersigned attorney attesting to the fact that the videotape entitled Summer 1989 was a promotional videotape shown to prospective customers of Unique.

Exhibit I is a set of materials provided by Unique Mobility, Inc. at a conference last summer, specifically on August 18-20, 1999 relating to Electric Vehicles. While these materials themselves do not comprise a reference against the above-identified application due to their date, they attest to the continuing promotional use by Unique Mobility, Inc. of materials relating to the Unique Mobility/Toro prototype mower. Note that various slides from these materials depict the Unique Mobility/Toro prototype mower.

To summarize, the Unique Mobility/Toro prototype mower conceived and reduced to practice in the late 1980's has been referred to since that time by Unique Mobility in various promotional ways as identified above, i.e. by use in promotional videotapes, conference materials, etc. Unique Mobility, Inc. would share additional information regarding this mower upon request by anyone viewing the videotape expressing further interest in the mower. These facts are being presented to the Examiner for a consideration of whether the Unique Mobility/Toro prototype mower is prior art under 35 USC 102(a), 102(b) or 102(g).

Respectfully submitted,



January 10, 2000

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